

Town of Frederick Board of Trustees



Eric Doering, Mayor

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Liberta Hattel, Trustee
Amy Schiers, Trustee

Tony Carey, Trustee
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AM 2010-018

Moratorium on Medical Marijuana Operations

Agenda Date: Town Board Meeting – February 23, 2010

Attachments: a. Proposed Resolution

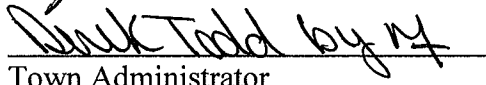
Fiscal Note: None noted


Finance Director

Submitted by:


Town Attorney

Approved for Presentation:


Town Administrator

AV Use Anticipated Projector _____ Laptop _____

Certification of Board Approval:

Town Clerk

Date

Summary Statement:

In 2000, Colorado voters passed Colorado Constitutional Amendment 20, amending Article XVIII of the Constitution by adding Section 14. (Medical use of marijuana for persons suffering from debilitating medical conditions). On December 8, 2009, the Board of Trustees was presented with a proposed ordinance setting the structure and terms applicable to the Town's licensing of medical marijuana growth and dispensing activities. At that meeting the Board did not adopt the code revisions, choosing instead to institute a moratorium on the submission and review of applications for commercial medical marijuana operations.

Detail of Issue/Request:

While Section 14 of Article XVIII has been on the books in Colorado for almost a decade, medical marijuana operations have only recently been appearing across the State in larger numbers, following

statements by the federal government that it will not vigorously pursue prosecution for possession of small amounts of marijuana. Medical Marijuana dispensaries have been opened and operated throughout the state for several years, though Frederick has not had a formal structure for licensing and regulating such operations until a proposed ordinance was brought to the Board of Trustees in December, 2009.

The proposed resolution was drafted to memorialize the motion passed by the Board at the December 8, 2009 meeting, electing to suspend any further consideration of how/whether to permit commercial medical marijuana operations for a period of 180 days. The rationale behind the motion was that federal and state policy needed time to catch up with recent opinions rendered in Colorado State courts on local regulation of medical marijuana operations. Since that time, the DEA has taken action to prosecute medical marijuana operations in another Colorado municipal jurisdiction, irrespective of whether that operation was permitted under local land use or municipal regulation.

The proposed ordinance brought to the Board in December, 2009 sought to update the business license portion of the Frederick Municipal Code to reflect the extent of the regulation and local law enforcement oversight required for lawful operation of medical marijuana dispensaries and medical marijuana growth facilities within the Town, as well as provide the structure for sales tax collection and voluntary reporting required by such operations.

Legal/Political Considerations:

Additional state policy has developed since the adoption of the moratorium and will likely continue to evolve during the term of the 180-day period. The Board should be aware that medical marijuana operations will and may have already come to Frederick in one form or another. Memorializing the terms of the moratorium will assist the Town in defending against claims raised by parties seeking to open medical marijuana operations or continue existing operation within the town limits.

Alternatives/Options:

Decline to adopt a resolution memorializing the terms of the moratorium, relying on the minutes from the 12/08/2009 meeting as the sole record of that legislative action;. OR issue a separate statement memorializing the intended terms of the moratorium.

Financial Considerations:

none

Staff Recommendation:

Adopt the proposed resolution or specify additional/other measures to provide public with details of moratorium's purpose and scope.